

(1998) 12 P&H CK 0036
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 17733 of 1998

Daljit Singh Rajput

APPELLANT

Vs

Chandigarh Administration and another

RESPONDENT

Date of Decision : 11-12-1998

Acts Referred:

Constitution of India, 1950 — Article 21, 226

Citation : (1999) CriLJ 1951 : (1999) 2 ILR (P&H) 290 : (1999) 3 RCR(Criminal) 151

Hon'ble Judges : V.K. Bali, J;B. Rai, J

Bench : Division Bench

Advocate : H.S. Gill, for the Appellant;

Judgement

V.K. Bali, J.—This petition having been filed by Shri Daljit Singh Rajput, an Advocate of this Court, was received through jail. Vide order dated November 19, 1998. We requested Mr. H. S. Gill, Senior Advocate of this Court, to assist us in the matter. Office was directed to supply him a copy of the paper book.

2. The clamour of petitioner-Advocate is to allow him to conduct the cases of his clients pending in the High Court during the time he is in judicial custody. Petitioner is involved in an FIR No. 109, dated June 11, 1998 pertaining to Police Station Sector 34, Chandigarh. He is also involved in an other FIR No. 31 dated June 13, 1998 which came to be registered against him by Sohana Police. Insofar as FIR No. 31 dated June 13, 1998 is concerned, he is on bail. He has, however, been refused bail in FIR No. 109 of 1998. No details whatsoever have been given as to what were the circumstances that culminated into arrest of the petitioner in FIR No. 109 of 1998 in which bail has been declined to him. A copy of the FIR and the order rejecting his bail have also not been annexed with the writ. All that has been mentioned in support of the petitioner is that the petitioner is an Income Tax payee and on account of some threat, he was provided security by the Government. It has further been pleaded that the Advocates come under the Consumer Protection Act and his clients are threatening to file petitions due to

his absence when their cases are called/taken up by the Courts but he cannot appear being in judicial custody.

3. It appears that unable to secure bail in the FIR, referred to above, petitioner, in addition to pleading his own cause, is additionally pleading the cause of his clients as well. For self, it is the threats of clients and consequential results of such threats before the Consumer Court that he wishes to avoid. The petition singularly lacks in giving any details of the threats received by him either orally or in writing. Be that as it may, the question that needs adjudication is as to whether, to avoid threats of his clients and the consequences of such threats, if taken to logical ends, petitioner can invoke any of the fundamental rights granted to him under the Constitution of India, to secure freedom from judicial custody enabling him to plead the cause of his clients. In our considered view, petitioner has no such right. Right of personal liberty, as enshrined in Article 21 of the Constitution of India, has an exception embedded to it in the very article dealing with personal liberty. No person shall be deprived of his life or personal liberty except according to the procedure established by law. The arrest and judicial custody of the petitioner is because of established criminal law of the country. Insofar as, therefore, right of petitioner to liberty is concerned, the same cannot be pressed into service in this case. Insofar as right of the petitioner to save himself from the provisions of the Consumer Protection Act, is concerned, suffice it to say that if the petitioner is unable to appear in the cases in which he has been engaged, for the reasons beyond his control, it is for him to think about the defences that may be available to him. It will be too premature at this stage to comment upon the defences that may be available to the petitioner. Surely, petitioner being a lawyer himself, knows about such defences and we are constrained to remark that the present petition has simply been filed to secure a result which the petitioner is unable to have in his endeavour in getting bail from the Criminal Court.

4. Mr. Gill, learned Senior Advocate, assisting the Court, further informs us that if the desired relief is granted to the petitioner only on the ground that his clients may seek remedy against him under the Consumer Protection Act, it would virtually result into granting bail which object could not otherwise be achieved from a Court of competent jurisdiction dealing with the criminal matter. This plea of putting in appearance on behalf of his clients can easily come forth not only from the lawyers but also from the doctors, architect and others engaged in any kind of profession. Looked from any angle, it does not appear to be a case where the High Court may interfere in the matter.

5. Finding no merit in this petition, we dismiss the same in limine.

6. Petition dismissed.